IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 556 (S/S) of 2007

Sayyed Ahak Ali S/o Late Sayyed Mohammad Miya, Presently serving as Sub Inspector (Ministerial) Steno at 46th Battalion P.A.C. Rudrapur Udham Singh Nagar

------ Petitioner

Versus

1. Union of India through its Chairman, Central State Advisory Committee, Gate No. 31, Jawahar Lal Nehru Stadium, Lodhi Road, New Delhi
2. Union of India through Secretary, Ministry of Personnel, Public Grievances and Pensions, (Deptt. of Personnel and Training) Govt. of India Lok Nayak Bhawan, IIIrd Floor Khan Market, New Delhi – 110003
3. State of Uttarakhand through Secretary, Home, Uttarakhand Sashan, Dehradun
4. Director General of Police Uttarakhand Sashan Dehradun
5. Additional Director General of Police (Administration) Uttarakhand Dehradun
6. State of Uttar Pradesh, through Secretary, Home U.P. Lucknow
7. Director General of Police U.P. Lucknow
8. Commandant, 46th Battalion P.A.C. Rudrapur Udham Singh Nagar

------ Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri K.K. Tiwari, learned counsel for the petitioner, Smt. Anjali Bhargav, learned Standing Counsel Union of India for respondent nos. 1 and 2, Sri Paresh Tripathi, learned Standing Counsel State of Uttarakhand for the respondent nos. 3, 4, 5 and 8 and Smt. Beena Pandey state of U.P. for respondent nos. 6 and 7.

By means of this writ petition, the petitioner ahs prayed for the following reliefs:

1. Issue a writ, role, order or direction in the nature of certiorari for quashing the portion of the final allocation list

dated 9.11.2004, related to the post of S.I. (M) Steno, (Annexre-1) issued by the by the Ministry of Personnel Public Grievances and Pension, Govt. of India and order dated 6.5.2007 (Annexure 2) issued by Commandant, 46 Battalion P.A.C. Rudrapur Udham Singh Nagar (respondent no.8)

2. Issue a writ, order or direction in the nature of mandamus commanding and directing the respondents to finally allocate the petitioner for Uttarakhand Cadre with all consequential benefits.
3. Issue a writ, order or direction in the nature of mandamus commanding and directing the respondents not to relieve the petitioner for state of U.P. and not to interfere with the peaceful functioning of the petitioner.
4. Issue any other order or direction, which this Hon'ble Court may deem fit and proper under the circumstances of the case.
5. Award cost of the petition in favour of the petitioner.

The petitioner, who is working at present as Sub Inspector (Ministerial) Steno at 46th Battalion P.A.C Rudrapur Udham Singh Nagar, has sought for quashing of the final allocation list by which he has been finally allocated to State of U.P.

It is not disputed that the petitioner is permanent resident of Uttar Pradesh and prior to creation of State of Uttarakhand, he had opted for State of Uttar Pradesh and has been finally allocated by the Union of India to State of U.P. He could not show any valid ground to interfere with the final allocation list issued by the Union of India.

Learned counsel for the petitioner has submitted that the petitioner is serving in District Udham Singh Nagar for last so many

years. He has constructed a house at Udham Singh Nagar and the children of the petitioner are studying in District Udham Singh Nagar. On these grounds, the final allocation list issued by the Union of India cannot be quashed. Learned counsel for the petitioner has further submitted that he has already moved a representation before the respondents and till the representation is decided, the respondents be directed not to relive the petitioner for State of U.P.

I do not find any ground to interfere with the order passed by the Commandant on 07.05.2007 for relieving of petitioner, which is passed in pursuance to the order dated 05.05.2007 passed by the Director General of Police, Uttarakhand. After publishing the final allocation list, the Union of India has issued a circular that it is not possible for Union of India to consider the representation after the final allocation list is published, but there may be cases which require consideration on various grounds. In such cases, it was left open to the State of U.P. and State of Uttarakhand to take decision on the basis of mutual transfer by the States.

The petitioner may apply for mutual transfer, if any person of the cadre of the petitioner who is living in State of U.P. and want to serve in State of Uttarakhand and I t is for the State of Uttarakhand to decide whether in such circumstances, the services of the petitioner are required by the State or not.

I do not find any merit in the writ petition and the writ petition is dismissed. All the pending applications stand disposed of.

(M.M. Ghildiyal, J.)

21.05.2007
VKS